

# EQUAL OPPORTUNITY EMPLOYMENT AND NONDISCRIMINATION

## Policy 511

~~Sample Policy 2~~ Waunakee Community School District

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~~(This sample policy addresses employment-related equal opportunity and nondiscrimination issues in a somewhat abbreviated fashion. The sample is only appropriate for a district that has adopted either PRG 113 Sample Policy 1 or PRG 113 Sample Policy 2 (or the locally-numbered equivalent) because this sample incorporates certain provisions from policy 113 by reference (rather than repeating the provisions in their entirety). PRG 511 Sample Policy 1 takes a more comprehensive (and longer) approach to coordinating with the PRG sample policies in topic 113 by repeating all parallel language for the various parallel provisions.~~

### IMPORTANT:

- ~~A district using this sample would also need to adopt an employment discrimination complaint procedure. PRG 511 Sample Rule 1 is a complaint procedure that was drafted to coordinate with this sample policy. In addition, a district adopting this policy should strongly consider adopting PRG 512 Sample Policy 1 as a supporting/related policy that further defines and addresses unlawful harassment as a form of employment discrimination.~~
- ~~Some districts may choose to adopt a separate policy or conduct rule specifically addressing inappropriate conduct that has no (or at least no alleged/known) connection to a legally-protected status. Such a policy or rule could prohibit workplace violence, threats, intimidation, and harassment. See PRG 522.3 Sample Policy 1.)~~

~~This sample assumes that the district is adopting and implementing the policies and grievance procedures under PRG topic 113 that have been updated in 2024 to reflect the 2024 federal Title IX regulations.)~~

The ~~(insert formal name of school district)~~ Waunakee Community School District is an equal opportunity employer. The School Board's goal and expectation is that the District shall maintain policies, practices, and a workplace environment that (1) do not unlawfully discriminate against any employee or applicant for employment, and (2) facilitate a timely, appropriate, and proportionate response to any complaint, report, or concern regarding possible unlawful discrimination in employment. The District's commitment to nondiscrimination and to taking appropriate corrective action when needed encompasses all aspects of employment and personnel administration, including recruitment, hiring, training, assignments, compensation, evaluation, and discipline.

Accordingly, the District shall not unlawfully discriminate against any employee or applicant for employment on the basis of disability, race, color, ancestry, national origin, citizenship, sex (including sex-based stereotypes and an employee's transgender status), sexual orientation, marital status, pregnancy (including childbirth and medical conditions related to pregnancy or childbirth), age, religion, creed, political or religious affiliation, arrest or conviction record, military service, use or nonuse of a lawful product off school premises during nonworking hours, declining to attend a meeting or to participate in any communication about religious matters or political matters, the authorized use of family or medical leave or worker's compensation benefits, genetic information, or any other basis prohibited by applicable law.

~~(Include as a clarification, if desired: "The term "unlawful discrimination" as used in this policy encompasses any unlawful adverse employment action, any unlawful harassment, or other~~

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unlawful denial of employment-related rights, benefits, or privileges that is based on any legally-protected status or classification. Specific state and federal laws and regulations further define the practices and conduct that do (or do not) constitute unlawful discrimination with respect to each protected status or classification. ~~§~~ The District also prohibits and shall appropriately address reports or complaints of any alleged, unlawful retaliation that arise in connection with state and federal employment rights. Additional District policies, including ~~Board Policy 413/513/13~~ and ~~Board Policy 512~~, further address equal employment opportunities and the District's prohibition against employment-related discrimination and prohibited retaliation.

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In the pursuit of providing an appropriate workplace environment that is free from unlawful discrimination (including harassment) the District reserves all discretion and authority to receive reports of, investigate, intervene in, and implement an appropriate response for: ~~(Editor's Note: This paragraph and its three subparagraphs are provided to clarify district expectations and the intended scope of the policy, but they are not strictly necessary and could be deleted.)~~

- The conduct of District officials, District employees, and certain non-employees (contractors, volunteers, vendors, visitors, etc.) that may constitute or that could reasonably contribute to a finding of unlawful discrimination affecting a District employee or applicant for employment.
- Conduct by a District official or employee that occurs while off-duty or away from a District workplace that has a legally-sufficient connection to District employment or to a District workplace (e.g., while off-duty, a supervisor sexually harasses a District employee).
- Workplace-related conduct by District officials or employees that the District determines (1) has no legitimate business purpose and improperly interferes with the efficient operation of the District; (2) improperly interferes with the work, education, or well-being of others; or (3) violates any Board policy or any other legitimate District work rule, directive, or expectation, even when such conduct may not be connected to a legally-protected status or prohibited by law. ~~(Editor's Note: Some districts may choose to adopt a policy or conduct rule specifically addressing inappropriate conduct that has no (or at least no alleged/known) connection to a legally-protected status. See PRG 522.3 Sample Policy 1 (covering workplace violence, threats, intimidation, and harassment.)~~

**Reasonable Accommodations.** To the extent required by law, the District will make reasonable accommodations in its employment practices for (1) qualified individuals with a disability; (2) a qualified employee or applicant who has a known limitation related to pregnancy, childbirth, or a related medical condition; or (3) an employee's or applicant's religious beliefs and practices. Applicants and employees may submit requests for such accommodations or otherwise identify a potential need for such accommodations by contacting ~~insert appropriate initial contact(s) – e.g., the District's Equal Employment Opportunity Officer or the employee's immediate supervisor~~.

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**Policy Provisions Incorporated by Reference.** The following provisions of ~~Board Policy 4113/513/13~~, which addresses the District's commitment to nondiscrimination across all aspects of the District's programs, activities, and operations, are applicable to this employment-focused policy and are incorporated by reference: ~~(Editor's Note: It is very important that the district~~

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~~policy that is cross-referenced in this paragraph, e.g., policy 113 or the local equivalent, actually contains all of the items in the list below. Be sure to reconcile any missing items. Some districts may choose to adopt a policy or conduct rule specifically addressing inappropriate conduct that has no (or at least no alleged/know) connection to a legally protected status. Such a policy or rule could prohibit workplace violence, threats, intimidation, and harassment. See PRG 522.3 Sample Policy 1.)~~

- Notice that the prohibitions against sex discrimination established by Title IX of the federal Education Amendments of 1972 ("Title IX") and by the regulations set forth in Part 106 of Title 34 of the Code of Federal Regulations ("the federal Title IX regulations") apply to the District. Title IX protects students, employees, and others from various forms of prohibited sex discrimination.
- The designation of nondiscrimination coordinators, including the District's Title IX Coordinator(s), ~~the Board Policy 413/513-113-17~~ also provides the direct contact information for such coordinators.
- Procedures under which any person (including a person who is not claiming to have been personally harmed/victimized by the alleged conduct or challenged policy) may report information about or, if eligible, submit a complaint alleging possible prohibited discrimination or prohibited retaliation.
- ~~**Editor's Note: Before including this provision in this policy, ensure that the active version of the district's general nondiscrimination policy actually covers expectations for employee reporting.**~~ Expectations for employees to inform an appropriate District-designated nondiscrimination coordinator when the employee has information about any conduct or District policy that reasonably may constitute unlawful discrimination (or any related acts of prohibited retaliation) within the District's programs, activities, or operations.
- The prohibition that no official, employee, or agent of the District or any other person may intimidate, threaten, coerce, or unlawfully discriminate against any individual (1) for the purpose of interfering with any right or privilege secured by any nondiscrimination statute or related regulation, or (2) because the individual has made a report or complaint, or testified, assisted, participated, or exercised a protected legal right (if any such right is applicable) to refuse to participate in any manner in an investigation or proceeding conducted under this policy or any other District nondiscrimination policy.
- The limitations on the extent to which the District can provide or assure confidentiality, but also the commitment to observe any specific confidentiality requirements established by state or federal law.
- The prohibition against bad faith conduct and abuse of process in connection with any report or complaint of possible discrimination or retaliation.

**Deadline for Submitting a Report or Complaint.** There is no absolute deadline for a person to submit a report or complaint under this policy. The District always has an interest in being made aware of potential concerns with prohibited discrimination, harassment, or retaliation. However,

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employees are expected to make such reports promptly, and any other person who has a complaint or concern involving such a matter is strongly encouraged to notify the District or pursue a complaint as soon as reasonably possible after the occurrence of the relevant events. A material gap in pursuing a complaint or concern can affect the extent to which it is practical to investigate the matter, and a delay may also limit the range of remedies and resolutions that are reasonably available. Further, it is important for employees to know that, under some circumstances, certain legal remedies for alleged discrimination may be unavailable if the employee fails to take timely action on his/her complaint or claim or unreasonably fails to take advantage of preventive or corrective opportunities (such as a complaint procedure) provided by the employer. If the District dismisses a report or complaint under this policy due to lack of timeliness, an actual party in interest may seek reconsideration of the decision to the extent provided under ~~Board Policy 413/513113~~.

**Reports, Complaints, and Complaint Procedures.** ~~*{Editor's Note: This subsection, which serves to distinguish between "reports" and "complaints" and to identify individuals who are expressly authorized to make "complaints" that initiate district-adopted complaint/grievance procedures, is based on similar concepts that exist under the 2024 Title IX regulations (e.g., the definition of a complaint, the definition of a complainant, and the identification of who has a right to make a Title IX complaint). The attempt to align the similar concepts is primarily for the sake of consistency across different types of discrimination complaints.}*~~ ~~Except as provided in ~~Board Policy 413/513113~~ in connection with formal complaints of Title IX sexual harassment~~ ~~Except as provided under ~~"Board Policy 113"~~ in connection with reports and complaints of sex discrimination or retaliation prohibited under Title IX, or as otherwise required by any other law, a complaint identifying circumstances or allegations that reasonably may constitute employment-related discrimination or retaliation under this policy will be processed according to the discrimination complaint procedures that the District has established under this policy.~~

A report of possible unlawful discrimination or prohibited retaliation under this policy will be treated by the District as a "complaint" if (1) the report can be objectively understood as a request for the District to investigate and make a determination about alleged unlawful discrimination or prohibited retaliation under one of the District's anti-discrimination complaint/grievance procedures, **and** (2) the person making the report is authorized by law or by District policy to make a complaint that initiates the applicable complaint/grievance procedures. By this policy:

1. Subject to the exceptions ~~stated identified~~ in the next paragraph, any current employee of the District as well any person other than an employee (such as an applicant or former employee) who was participating or attempting to participate in District programs, activities, or operations in an employment-related capacity at the time of the alleged employment discrimination is authorized to make such a complaint as to any allegation(s) of prohibited employment discrimination based on any legally-protected status (including prohibited retaliation). Such employee's or other person's authorized legal representative may act on their behalf in making such a complaint.

2. As ~~elimited~~ exceptions to the previous paragraph:

- a. ~~to~~ to make a complaint of prohibited **harassment** based on a legally-protected

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status that initiates complaint/grievance procedures adopted under a District nondiscrimination policy, the District reserves discretion to additionally require that the employee or other person must be alleging that he or she has been subjected to the alleged harassing conduct. An individual who is required to work in a hostile environment that is alleged to have been created based on a legally-protected status is sufficiently subjected to the alleged harassing conduct even if that individual is not the direct target of the conduct. Even in situations where this exception applies, an individual may still report information about possible unlawful harassment to the District, and the District will still appropriately respond to the report even if it is not processed as a "complaint."

~~e.b.~~ In addition to their right to use the general reporting procedures identified above, an individual who is alleged to be the victim of conduct that could constitute sexual harassment under the federal Title IX regulations (i.e., a Title IX sexual harassment "complainant") may also file a "formal complaint" to initiate the applicable Title IX "grievance process," as those terms are defined in 34 C.F.R. Part 106. The Title IX regulations state that at the time of filing such a formal complaint, a complainant must be participating in or attempting to participate in a District program or activity. Additional information about filing a formal complaint of Title IX sexual harassment, including the applicable procedures, can be found in ~~Board Policy 113~~.

To the extent permitted by law and upon being notified of conduct that could reasonably constitute prohibited employment discrimination, the District, acting through its designated nondiscrimination and equal employment opportunity coordinators, also reserves discretion to unilaterally document a complaint that serves to initiate one of the District's anti-discrimination complaint/grievance procedures.

**Consequences for Violations.** Any person who is determined to be responsible for any form of unlawful discrimination, any act of prohibited retaliation, or other violation of a District nondiscrimination policy, including this policy, is subject to appropriate disciplinary action and/or other appropriate consequences that are within the District's lawful authority.

In addition, any employee or authorized agent of the District who, considering the duties, responsibilities, and expectations established for their position/role, fails to reasonably respond to complaints or reports of alleged discrimination or retaliation, or who otherwise fails to reasonably act on their knowledge of a possible violation of a nondiscrimination law or a District nondiscrimination policy, is also subject to possible disciplinary action.

~~***{Editor's Note: If the district mandates particular training for administrators and other supervisors that exceed minimum legal mandates (such as the Title IX training mandates), or if the board wishes to establish an expectation that the administration will provide opportunities for all employees to attend or access certain training and awareness programs relating to nondiscrimination expectations, obligations, and policies, such training and staff development requirements may be specified as an additional section within this policy. Whether or not mandated by a school board policy, a school district can point to such training and awareness activities to show that the district has taken reasonable steps to attempt to prevent discrimination (including***~~

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~~harassment) and to notify employees (and perhaps even students) of relevant expectations and procedures — all of which can directly affect school district liability in some cases.)~~

## Legal References:

### Wisconsin Statutes

[Subch. II of Chapter 111](#) [the state fair employment and nondiscrimination statutes, including specific prohibited bases of discrimination (sections [111.31](#) to [111.395](#))]  
[Section 118.195](#) [discrimination against handicapped teachers]  
[Section 118.20](#) [teacher/administrator discrimination prohibited]

### Federal Laws and Regulations

[20 U.S.C. §1681 et seq.](#) [Title IX of the Education Amendments of 1972, as amended, prohibiting sex discrimination in federally-supported educational programs; implementing regulations at [34 C.F.R. Part 106](#)]  
[42 U.S.C. §2000e et seq.](#) [Title VII of the Civil Rights Act of 1964, as amended, prohibiting employment discrimination based race, color, national origin, sex, pregnancy, and religion; implementing regulations at [29 C.F.R. Ch. XIV](#)]  
[42 U.S.C. §2000d et seq.](#) [Title VI of the Civil Rights Act of 1964, as amended, prohibiting discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds; implementing regulations at [28 C.F.R. Part 42, Subpart C](#)]  
[42 U.S.C. §12111 et seq.](#) [The Americans with Disabilities Act, Title I, as amended, prohibiting employment discrimination based on a qualifying disability; implementing regulations at 29 C.F.R. [Part 1602](#) and [Part 1630](#)]  
[42 U.S.C. §12131 et seq.](#) [The Americans with Disabilities Act, Title II, as amended, nondiscrimination based on disability by state and local governments; implementing regulations at [28 C.F.R. Part 35](#)]  
~~[42 U.S.C. §2000ff et seq.](#) [Genetic Information Nondiscrimination Act, as amended; implementing regulations at [29 C.F.R. Part 1635](#)]~~  
[29 U.S.C. §794 et seq.](#) [Section 504 of the Rehabilitation Act of 1973, as amended, prohibiting discrimination based on a qualifying disability by recipients of federal funds; implementing regulations at [34 C.F.R. Part 104](#), [28 C.F.R. Part 42, Subpart G](#), and [29 C.F.R. Part 1640](#)]  
[29 U.S.C. §621 et seq.](#) [Age Discrimination in Employment Act, as amended; implementing regulations at [29 C.F.R. Parts 1625 to 1627](#)]  
[38 U.S.C. 4301 et seq.](#) [Uniformed Services Employment and Reemployment Rights Act, as amended; implementing regulations at [20 C.F.R. Part 1002](#)]  
[8 U.S.C. §1324b\(a\)](#) [prohibiting employment discrimination based on national origin and citizenship status; implementing regulations at [28 C.F.R. Part 44](#)]  
[11 U.S.C. §525](#) [employment discrimination based on certain bankruptcy-related statuses and proceedings]  
~~[42 U.S.C. §2000gg et seq.](#) [Pregnant Workers Fairness Act; implementing regulations at [29 C.F.R. Part 1636](#)]~~

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## Cross References:

WASB PRG 511 Sample Policy 2

*{Insert appropriate cross references to the policy as applicable to your district.}*

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## **Revised:**

March 1994

September 1995

April 1999

April 2002

May 2005

September 2024

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